

1 is not to put the Commission on trial, Your Honor. I
2 understand there's no claim here that the Commission should
3 have put all these pieces together or anything like that. I
4 understand that. The point is simply that the state of mind,
5 the intention, of the TBN and NMTV people who are on trial
6 here was that they were disclosing the -- they were disclosing
7 many relevant circumstances to the Commission which many cases
8 hold justifies an inference that even if there wasn't a
9 violation there was no intent and, therefore, that impacts on
10 what sanctions should be imposed.

11 MR. SCHAUBLE: Your Honor, do you wish a response?

12 JUDGE CHACHKIN: The Bureau's position is they don't
13 object to Tab G? Is that correct?

14 MR. SCHONMAN: That's correct.

15 JUDGE CHACHKIN: You agree with the reasoning of
16 Mr. Topel?

17 MR. SCHONMAN: Essentially, yes.

18 JUDGE CHACHKIN: And you want to state something
19 further?

20 MR. SCHAUBLE: Yes, Your Honor. With respect to the
21 argument that this disclosed was somehow discretionary, I
22 respectfully disagree with that position. If Ms. Duff was, in
23 fact, the official who did have overall responsibility for
24 equal employment opportunity at Trinity, Trinity clearly was
25 under an obligation to list her name, her name there as the

1 responsible official and that, therefore, that argument that
2 Trinity had some sort of discretion in that regard concerning
3 the making of the disclosure was, I believe, to be incorrect.
4 And as far as -- I believe this exhibit taken in isolation
5 really adds nothing to the record.

6 JUDGE CHACHKIN: Well, I'll permit official notice
7 to be taken of the portions of the application Mr. Topel has
8 indicated. I'm not necessarily persuaded, but I think
9 sufficient justification has been made to allow him to take
10 official notice and make his argument. So I'll receive Tab G
11 for purposes of official notice.

12 MR. TOPEL: Thank you, Your Honor.

13 JUDGE CHACHKIN: What about Tab H? What's the
14 position? Tab H is objection?

15 MR. SCHAUBLE: Yes, Your Honor.

16 JUDGE CHACHKIN: Does the Bureau object too or just
17 -- Tab H, Tab H is the -- what portions of Tab H do you want
18 to take official notice of?

19 MR. TOPEL: These are all Commission documents. It
20 is offered for the address of Trinity -- the presence in the
21 Commission records and frequent places of the address of
22 Trinity Broadcasting Network. It's a companion to Tab G
23 because Tab G at page 4 -- on page -- I'm sorry. Tab G on
24 page 6 asks the Commission to send notices to Jane Duff at an
25 address, 2442 Michelle Drive, and Tab H establishes that this

1 was very public information, that this was TBN, that -- so she
2 was identified to the Commission as a person who had
3 responsibility, she'd be the recipient of personal notices
4 from the Commission and that she was at TBN, so it's part of
5 the disclosure.

6 JUDGE CHACHKIN: I don't think it has anything to do
7 with intent. I think there you're going to the question that
8 somehow the Commission should have known and taken some steps,
9 if they believed something was wrong. As you put it, they
10 should have put all the pieces together.

11 MR. TOPEL: I'm not making that argument,
12 Your Honor.

13 JUDGE CHACHKIN: Well, that's -- I don't see that
14 this is intent when she gave the address to which mail should
15 be sent to. What other address are you going to give?

16 MR. TOPEL: Well, it indicates that she, that she
17 was aware and that it was -- there was certainly no intent to
18 hide that that address was the Trinity Broadcasting address.

19 JUDGE CHACHKIN: Well, Tab H is rejected as
20 irrelevant. Tab I? Any objection to that?

21 MR. SCHAUBLE: None, Your Honor.

22 JUDGE CHACHKIN: Tab I is received. Tab J?

23 MR. SCHAUBLE: Yes, Your Honor. I object to Tab J
24 on the basis of relevance. Again, this is a matter that was
25 considered with respect -- that was referenced in paragraph 16

1 of the exhibit on page 16 and counsel has already made his
2 argument as to the relevance of this and Your Honor rejected
3 those argument, and this is a annual employment report, not
4 for NMTV, but for KTBN which is a Trinity station and,
5 therefore --

6 JUDGE CHACHKIN: Well, how is this relevant?

7 MR. TOPEL: Your Honor, it's the same as Tab G.
8 These documents show -- the first one is a filing made with
9 the Commission dated June 1, 1987. That was during the time
10 that the -- NMTV's Odessa application was pending at the FCC.
11 And that's one of the applications that NMTV and TBN are
12 accused of abusing the Commission's processes.

13 JUDGE CHACHKIN: And what is there --

14 MR. TOPEL: Okay. In the June 1, 1987 filing --

15 JUDGE CHACHKIN: Yes.

16 MR. TOPEL: -- there is a showing that a copy of the
17 annual employment report should be sent to Jane Duff for
18 placement in the public file of the station --

19 JUDGE CHACHKIN: Yes.

20 MR. TOPEL: -- which is at KTBN, at the Trinity
21 station, so it is again a disclosure to the Commission so that
22 -- indicating that the applicant had no intent to conceal from
23 the Commission that Mrs. Duff was an employee of TBN while the
24 Odessa application was being processed. The next part of the
25 exhibit, starting on page 3, is a similar filing dated May 25,

1 1989 which was after the Odessa station was on the air, and it
2 again reports to the Commission that Mrs. Duff is responsible
3 for maintaining the public file of KTBN Trinity located in
4 California. Again, not to argue that the Commission should
5 have put these pieces together, but that if there was an
6 intent to hide Mrs. Duff's role at TBN, to create an
7 intentional abuse of process and a intentional de facto
8 control, we would submit that the applicant surely would not
9 have put on its transmittal letters to the FCC while the
10 Odessa application was pending and then after that station was
11 on the air that Mrs. Duff is located at the TBN headquarters
12 with administrative responsibilities.

13 JUDGE CHACHKIN: Well, in the first place, the
14 letter was sent by the lawyer, Colby, May. It was not sent by
15 the station. And Colby, May merely was indicating that they
16 wanted this to put in the public file. It doesn't indicate
17 that she had any position or responsibility, merely telling
18 you to put it in the public file.

19 MR. TOPEL: It indicates --

20 JUDGE CHACHKIN: So I don't know how it deals --
21 maybe it deals with Colby, May's intent, but I don't know how
22 it deals with the station's intent since the letter was not
23 from the -- TBN or NMTV.

24 MR. TOPEL: Your Honor, with all respect, with all
25 respect, the letter states to the Commission that it is filed

1 on behalf of the referenced licensee --

2 JUDGE CHACHKIN: I understand that.

3 MR. TOPEL: -- and was placed in the public file.

4 JUDGE CHACHKIN: Well, I think this is too tentative
5 on the question of intent. I'm not going to receive this Tab
6 I.

7 MR. SCHAUBLE: Excuse me, Your Honor. It's Tab J.

8 JUDGE CHACHKIN: Tab J. Tab K, any objections?

9 MR. SCHAUBLE: Your Honor, not an objection, but
10 the, the underlying text which is paragraph 17 was offered --
11 was received for state of mind purposes only and I think Tab K
12 should be admitted with the same indication, for state of
13 mind.

14 JUDGE CHACHKIN: It will be received solely for that
15 purpose. Any objection to Tab L?

16 MR. SCHAUBLE: No, Your Honor.

17 JUDGE CHACHKIN: Tab L is received. Any objection
18 to Tab M?

19 MR. SCHAUBLE: No, Your Honor.

20 JUDGE CHACHKIN: Tab M is received. Any objection
21 to Tab N?

22 MR. SCHAUBLE: None, Your Honor.

23 JUDGE CHACHKIN: Tab N is received. Any objection
24 to Tab O?

25 MR. SCHAUBLE: None, Your Honor.

1 JUDGE CHACHKIN: Tab O is received. Any objection
2 to Tab P?
3 MR. SCHAUBLE: No, Your Honor.
4 JUDGE CHACHKIN: Tab P is received. Any objection
5 to Tab Q?
6 MR. SCHAUBLE: No, Your Honor.
7 JUDGE CHACHKIN: Tab Q is received. What about Tab
8 R?
9 MR. SCHAUBLE: No objection, Your Honor.
10 JUDGE CHACHKIN: Tab R is received. Tab S?
11 MR. SCHAUBLE: No objection, Your Honor.
12 JUDGE CHACHKIN: Tab S is received. Tab T?
13 MR. SCHAUBLE: No objection.
14 JUDGE CHACHKIN: Tab T is received. Tab U?
15 MR. SCHAUBLE: No objection, Your Honor.
16 JUDGE CHACHKIN: Tab U is received. Tab V?
17 MR. SCHAUBLE: No objection, Your Honor.
18 JUDGE CHACHKIN: Tab V is received. Tab W?
19 MR. SCHAUBLE: No objection.
20 JUDGE CHACHKIN: Tab W is received. Tab X?
21 MR. SCHAUBLE: No objection, Your Honor.
22 JUDGE CHACHKIN: Tab X is received. Tab Y?
23 MR. SCHAUBLE: No objection, Your Honor.
24 JUDGE CHACHKIN: Tab Y is received. Tab Z?
25 MR. SCHAUBLE: No objection, Your Honor.

1 JUDGE CHACHKIN: Tab Z is received. Tab AA?

2 MR. SCHAUBLE: This I do have an objection to,
3 Your Honor.

4 JUDGE CHACHKIN: All right.

5 MR. SCHAUBLE: This is --

6 JUDGE CHACHKIN: Let's -- what about the remainder
7 of the tabs? Do you have any objections to them?

8 MR. SCHAUBLE: I have -- the objection -- my
9 objections -- I believe my only remaining objections are to
10 Tab AA and DD and also I have an objection to FF.

11 JUDGE CHACHKIN: All right. Let me get them marked.
12 All right. Tab CC is received. Tab DD is received. Tab EE
13 is received. Tab GG is received. Tab HH is received. Tab II
14 is received. And now let's get to the ones in which there are
15 objections. Tab AA, what's your objection?

16 MR. SCHAUBLE: Your Honor, this relates to the
17 material that was rejected concerning the question of the
18 number and the amount of minorities that were employed, Tab
19 AA, at NMTV's Odessa station --

20 JUDGE CHACHKIN: Yes.

21 MR. SCHAUBLE: -- which Your Honor has ruled has no,
22 no relevance to this proceeding and it appears that the sole
23 purpose of this is to -- was to back up the, the assertion in
24 the text which Your Honor has already rejected.

25 JUDGE CHACHKIN: All right. Since I have already

1 -- I have rejected the material dealing with the subject, Tab
2 AA is also rejected. What's -- Tab DD, you object to the same
3 thing?

4 MR. SCHAUBLE: Yes, Your Honor.

5 JUDGE CHACHKIN: Tab DD is rejected. Now Tab FF,
6 what is that?

7 MR. SCHAUBLE: Tab FF, Your Honor, appears to be --

8 JUDGE CHACHKIN: It says it's census data.

9 MR. SCHAUBLE: -- census data.

10 JUDGE CHACHKIN: And what's the -- what's your
11 objection?

12 MR. SCHAUBLE: Your Honor, this is in the paragraph
13 mentioned on -- letter paragraph (d) on page 54 going on to
14 page 55.

15 JUDGE CHACHKIN: Yes.

16 MR. SCHAUBLE: Where a series of assertions were
17 made concerning the amount of the percentage of minorities in
18 the service areas of NMTV's stations which Your Honor has
19 already rejected and I believe --

20 JUDGE CHACHKIN: All right. Tab FF is similarly
21 rejected. All right. The next exhibit is TBF Exhibit 102 and
22 before we begin that we'll take lunch.

23 (Off the record.)

24 JUDGE CHACHKIN: Back on the record. The next
25 exhibit?

1 MR. TOPEL: Yes, Your Honor. I have one preliminary
2 matter on the matter you raised this morning. I am prepared
3 to represent to you affirmatively on behalf of TBN that the,
4 that the reporting of the proceedings will not be used to
5 violate sequestrational requirements, will not be used in any
6 manner to substitute the record that is compiled in this
7 hearing room and will be used solely for broadcast purposes.

8 JUDGE CHACHKIN: Under those circumstances does
9 anyone have objection to TBN's broadcasting this proceeding?

10 MR. SCHONMAN: No objection.

11 MR. COHEN: No objection, Your Honor.

12 JUDGE CHACHKIN: All right. I'm -- as I indicated,
13 I'm going to allow CNN to broadcast this proceeding and, and
14 TBN may also do so with the understanding, and it applies to
15 both entities, that if it disturbs the proceeding in any way
16 the broadcasting will cease.

17 MR. COHEN: Your Honor --

18 JUDGE CHACHKIN: The video tape will be stopped.

19 MR. COHEN: -- I don't -- I do not mean to --

20 JUDGE CHACHKIN: Oh, I haven't -- that's right. Let
21 me --

22 JUDGE CHACHKIN: I think you need to rule --

23 JUDGE CHACHKIN: I think, I think you're right. I
24 forgot all about this.

25 MR. COHEN: You tried to preempt him, Mr. Honig,

1 | who's not here.

2 | JUDGE CHACHKIN: Yes. I understand. I will --

3 | MR. COHEN: I didn't submit this motion, but I think
4 | you should --

5 | JUDGE CHACHKIN: I -- let me say -- let me withdraw
6 | what I said. I will rule tomorrow morning after I've had an
7 | opportunity to review the motion, and if the parties have any
8 | comments on the motion they could state it at that time, but
9 | apparently they have no objection so perhaps they don't have
10 | it. In any event, I will rule tomorrow morning after I've had
11 | an opportunity to review the motion. Let's proceed.

12 | MR. TOPEL: Your Honor, the next volume that I'd
13 | like to get marked for identification is Volume II-B. It
14 | contains TBF Exhibits 102 through 104. I ask to have marked
15 | for identification a document titled Testimony of Edward
16 | Victor Hill. It consists of 30 pages followed by a supporting
17 | declaration and one tab lettered A, and I ask that that be
18 | marked for identification as TBF Exhibit 102.

19 | JUDGE CHACHKIN: The document is so marked.

20 | (The document that was referred to as
21 | TBF Exhibit No. 102 was marked for
22 | identification.)

23 | MR. TOPEL: Next, Your Honor, I'd like to have
24 | marked for identification a document titled Testimony of
25 | Ramondo Ramirez. It consists of --

1 JUDGE CHACHKIN: Did you, did you mention that
2 there's a tab with the testimony?

3 MR. TOPEL: Yes. It's one tab lettered A.

4 JUDGE CHACHKIN: Yes. Okay.

5 MR. TOPEL: A document entitled Testimony of Ramondo
6 Ramirez which consists of 12 pages followed by a supporting
7 declaration and I ask that that be marked for identification
8 as --

9 JUDGE CHACHKIN: Go ahead. I'm sorry.

10 MR. TOPEL: -- as TBF Exhibit 103.

11 JUDGE CHACHKIN: It will be so marked.

12 (The document that was referred to as
13 TBF Exhibit No. 103 was marked for
14 identification.)

15 MR. TOPEL: And next, Your Honor, I ask to have
16 marked for identification a document titled Testimony of Paul
17 F. Crouch. It consists of 23 pages followed by a supporting
18 declaration and tabs A through F, and I ask that that be
19 marked for identification as TBF Exhibit 104.

20 JUDGE CHACHKIN: It will be so marked.

21 (The document that was referred to as
22 TBF Exhibit No. 104 was marked for
23 identification.)

24 MR. TOPEL: And, Your Honor, at this time I move
25 into evidence TBF Exhibit 102.

1 JUDGE CHACHKIN: Any objections?
2 MR. COHEN: Yes, sir.
3 JUDGE CHACHKIN: State them, please.
4 MR. COHEN: Your Honor, in dealing with the
5 objections to the previous witness' testimony it's my
6 understanding, and I've reviewed my notes, that you made it
7 clear that background is irrelevant to the designated issues
8 in this proceeding. I say that because if you review the
9 testimony of the witness Edward Victor Hill you will see that
10 for the first several pages what we have is background. Now,
11 I have no objection to the first paragraph or to the second
12 paragraph because they describe the person, but commencing at
13 page -- paragraph 3, Your Honor, and I'm sure you reviewed
14 this, but let me just refresh you, if you see -- if you begin
15 to see this, this looks like the type of testimony we all are
16 accustomed to in a comparative proceeding where a witness'
17 comparative qualifications are at issue. And look at 3, look
18 at 4 and I'm prepared to go through this line by line if it's
19 appropriate. Look at 4, look at 5, look at 6, look at 7, look
20 at 8 and look at 9 and you'll see what I mean. Now, there's
21 other vices in these paragraphs which I'm prepared to review
22 line by line, but I wanted first to make that observation to
23 you and, and see what your reaction is if -- I am prepared to
24 go through this on a line by line basis.
25 JUDGE CHACHKIN: Well --

1 MR. TOPEL: May I be heard, Your Honor?

2 JUDGE CHACHKIN: Yes, you can be heard. I see we
3 even brought Rodney King into this.

4 JUDGE CHACHKIN: Not only Rodney King, but President
5 Reagan, Ben Hooks, Coretta Young.

6 JUDGE CHACHKIN: When -- deals with other periods,
7 but -- well, let's hear your, your comments, counsel.

8 MR. TOPEL: Sure. Your Honor, first of all, my
9 understanding is that the control issue extends at least
10 through the date of the Designation Order and the aspect of a
11 forfeiture would be limited to a period of one year prior to
12 that, and all of that surrounds the period when Pastor Hill
13 was a director of this corporation. This testimony is offered
14 for several reasons that extend beyond background. The
15 testimony explains Pastor Hill's reasons that he became a
16 director of NMTV and reasons why -- whether or not he is
17 subject to the de facto control of Trinity. More -- an
18 additional purpose of this testimony, I think a very important
19 one, Your Honor, relates to -- directly to the issue of
20 control and how non-profit corporations operate. And I would
21 like to, with your permission, just read from a Commission
22 document which is a Notice of Inquiry dealing specifically
23 with the issue of transfers of control of certain licensed
24 non-stock entities. This is a Notice of Inquiry that the
25 Commission issued in 1989. And I want to make clear,

1 Your Honor, I am not attacking the Commission on this point.
2 I am simply citing the Commission. But what the Commission
3 said in that Notice of Inquiry is at this point we need
4 additional information on how membership organizations tend to
5 operate to decide whether we should establish or even can
6 establish general guidelines for identifying substantial
7 transfers of control. Then the Commission goes on to make
8 some proposals that indicate that we invite comment on whether
9 our description, that is the Commission's understanding, of
10 how these organizations with self-perpetuating boards operate
11 is sufficiently accurate to support the proposal. This Notice
12 of Inquiry has -- is still pending. It has never been
13 decided. The point, Your Honor, is that non-commercial
14 organizations, non-profit corporations, function in certain
15 ways that the Commission has acknowledged. It's not sure it
16 has a, a full understanding of it and they invite the
17 comments.

18 JUDGE CHACHKIN: I don't want to break you off, but
19 didn't the Commission say that whether you're commercial or
20 not commercial still basic principles apply?

21 MR. TOPEL: That's what the Designation Order said.

22 JUDGE CHACHKIN: I also would refer you to Black
23 Television Workshop which was my case and the same exact
24 arguments were made there and rejected by the Commission, that
25 as far as transfer of control is concerned the same principles

1 | which govern in commercial corporations govern non-commercial
2 | corporations, so if you want to make this argument at some
3 | point to the Court of Appeals you could do so, but I don't see
4 | any purpose by telling me the fact that there was a Notice of
5 | Proposal Rule Making.

6 | MR. TOPEL: Your Honor, that's not my argument that,
7 | that the tests for control are different. The point is that
8 | there is a lot of testimony from these directors of their
9 | understanding of how non-profit organizations work, that being
10 | --

11 | JUDGE CHACHKIN: Their understanding is irrelevant.
12 | What's relevant is whether or not they complied with the
13 | Commission's requirements. The fact that other non-profit
14 | organizations which are not regulated by the Commission work
15 | in different ways is of no concern and no involvement in this
16 | proceeding. What we're interested in this proceeding is
17 | whether it conforms with the Commission's requirements.

18 | MR. TOPEL: I understand, Your Honor, but --

19 | JUDGE CHACHKIN: All right.

20 | (TAPE 3)

21 | JUDGE CHACHKIN: Yes. Go ahead.

22 | MR. TOPEL: The purpose of the testimony,
23 | Your Honor, is to explain the manner in which control of NMTV
24 | has functioned. We understand that Your Honor will apply
25 | Commission law and principle.

1 JUDGE CHACHKIN: And not only that. They were
2 required to be aware of Commission case law and Commission
3 precedent, notwithstanding their involvement in non-FCC
4 corporations. So that fact that they may be familiar with
5 other entities operating has no bearing on FCC requirements or
6 regulations. When you become a licensee of the Commission
7 you're required to be aware of and observe Commission
8 regulations, and the fact that entities operating in different
9 spheres operate in a different fashion is totally irrelevant
10 to anything as far as I'm concerned.

11 MR. TOPEL: Well, I understand your ruling,
12 Your Honor.

13 JUDGE CHACHKIN: All right. That's my ruling and
14 I'm not going to allow testimony in concerning how entities
15 operating under state law or city law or what have you is
16 totally irrelevant. I mean, if you're an FCC licensee your
17 requirement, your responsibility, is to be aware of and
18 observe Commission requirements. And the fact that other
19 entities, the fact that other partnerships are allowed to
20 operate differently and there are different standards for
21 limited partnerships or general partnerships has no bearing on
22 your knowledge, awareness and requirement to operate under FCC
23 requirements. I mean, the same argument could be made whether
24 the limited partners -- whether you're a limited partner or
25 not, but the Commission has its own rules, whether you have to

1 be passive or non-passive, and the fact that you're familiar
2 and you operate differently in different environments has no
3 bearing on the question of intent or on the question as far as
4 I'm concerned of the issues in this proceeding and I not allow
5 testimony as to operating in other spheres has any -- I will
6 not allow such testimony insofar as the issues in this
7 proceedings are concerned. It's totally irrelevant.

8 MR. TOPEL: I understand your ruling, Your Honor.

9 JUDGE CHACHKIN: All right.

10 MR. TOPEL: I would, I would have supplemented my
11 argument with the issue of intent, good faith, intent,
12 particularly in a context where the Commission has said what I
13 read to you, but I understand your ruling and --

14 JUDGE CHACHKIN: Good faith and intent could have a
15 bearing on a knowledge or misunderstanding of FCC
16 requirements, but not with the fact that you were able to
17 operate in a different way somewhere else in a different
18 environment. That has nothing to do with good faith or intent
19 in my view. So where are we with this?

20 MR. COHEN: Well, Your Honor, I think that the one
21 argument that Mr. Topel made which I would want to respond to
22 -- I think the other one is -- you dealt with in your, your
23 remarks -- that the reasons for becoming directors, which is
24 spread out through Reverend Hill's testimony, is too remote in
25 my judgment. It simply is too remote. What -- you stated

1 that several times yesterday and today that what you want to
2 deal with are the facts and what is involved in control is
3 what he did and what he didn't do. His reasons for joining
4 the board, I suspect -- I submit, are too remote, too
5 collateral and don't pertain to the issue. And I think if you
6 recognize that that much of this testimony, and I'm prepared
7 to, you know, go through with it line by line or paragraph by
8 paragraph, simply doesn't meet the test that you enunciated as
9 the rule of the case.

10 MR. TOPEL: Your Honor, I'm trouble by a blanket
11 objection --

12 MR. COHEN: I'll go through it then.

13 MR. TOPEL: -- and I believe the witness does state
14 that his background relates to the reasons he joined NMTV and
15 I would add, Your Honor, that one aspect of his background is,
16 is his experience with government minority preference programs
17 and his understanding of how those would work and why he
18 understood, therefore, in his state of mind that NMTV was
19 complying with the Commission requirements because from his
20 experience with government minority preference programs that
21 there was supposed to be a certain degree of interaction
22 between the non-minority sector and the minority sector, and
23 he interpreted this government minority preference as being
24 consistent with that general governmental regulation, but I
25 think that goes directly to his good faith state of mind.

1 JUDGE CHACHKIN: And I have indicated to you I'm not
2 interested and I don't think it's relevant, his state of mind
3 the fact his knowledge and awareness of operation in other
4 spheres, that all I'm interested in is good faith in observing
5 the Commission's regulations. And the fact that there are
6 other requirements elsewhere has no bearing on his good faith
7 in observing the Commission regulations. He came -- once you
8 become a Commission licensee it's totally irrelevant how other
9 statutes are interpreted in other -- by other agencies. Your
10 obligation as the licensee is to observe the Commission's
11 rules and requirements. And I don't see how good faith enters
12 into it, say, well, I was able to operate this way under a
13 different agency. Therefore, I assumed that I could operate
14 the same way before the FCC when the FCC has its own set of
15 rules and regulations and policies.

16 MR. COHEN: I -- I'll go through my objections then,
17 Your Honor. I object to paragraph 3 for the reasons that I
18 stated.

19 MR. TOPEL: And, Your Honor, I would submit that
20 this single paragraph of biographical data showing the stature
21 and leadership that Pastor Hill has held throughout his career
22 is relevant to whether he is subject to the control of another
23 party.

24 JUDGE CHACHKIN: I don't see how it's relevant and
25 I'm prepared to -- there's no objection apparently to the

1 first two paragraphs which describe who he is.

2 MR. COHEN: That's right, Your Honor. That's why I
3 don't object.

4 JUDGE CHACHKIN: But the rest of it has nothing to
5 do with the question of control.

6 MR. SCHONMAN: Your Honor?

7 JUDGE CHACHKIN: There's nothing here indicating --
8 to do with the question of control. I'm, I'm going to reject
9 all of paragraph 3 as irrelevant to the issue of control.

10 MR. SCHONMAN: Your Honor, I would like to state the
11 Bureau's position that --

12 JUDGE CHACHKIN: Yes.

13 MR. SCHONMAN: -- with respect to paragraph 3. You
14 know, the Bureau has no difficulty with the first sentence and
15 then the accompanying tab because in a way the information
16 that appears in narrative form in paragraph 3 is also in a way
17 reproduced in the tab and the Bureau has no objection to this
18 information simply identifying again who this individual is.

19 JUDGE CHACHKIN: Well, this goes beyond --

20 MR. COHEN: Yes, it certainly does.

21 JUDGE CHACHKIN: -- who this individual is. It
22 deals with his accomplishments and goes way beyond that.

23 MR. COHEN: I object to it --

24 JUDGE CHACHKIN: Apparently the argument is that
25 because this individual is such a well established and

1 responsible and important figure, therefore, he could not have
2 been involved in a transfer of control.

3 MR. SCHONMAN: Well, Your Honor --

4 JUDGE CHACHKIN: And if that's so, I don't think
5 that's a valid argument.

6 MR. SCHONMAN: No. Well, I was looking at it from
7 another possible argument --

8 JUDGE CHACHKIN: What was that?

9 MR. SCHONMAN: -- which is to the effect that this
10 individual is so busy he doesn't have any idea what's going on
11 at National Minority T.V.

12 JUDGE CHACHKIN: Well, there's no indication here
13 that he makes that claim. Apparently he hasn't made that
14 claim as far as I can see in this, this exhibit. It's his
15 testimony. It doesn't make that claim as far as I can see.
16 Did he anywhere make this claim that --

17 MR. SCHONMAN: Your Honor, the point that I'm making
18 is not that he would make that claim, but that that would be
19 available, you know, for argument.

20 JUDGE CHACHKIN: How could it be available for
21 argument if he doesn't make the claim? If he doesn't claim
22 that the reason these things happened is because he was too
23 inattentive because he had too much involvement in other
24 things, who is to make the claim for him?

25 MR. SCHONMAN: Maybe my point is being missed here.

1 The point that I was trying to make was that this individual
2 is an extremely busy individual who is apparently, from his
3 testimony so far as I can glean from it, had very little time
4 to devote to what was going on at National Minority T.V. and
5 that this resume is simply consistent with that, that the man
6 is so busy that National Minority T.V. is really a blip in his
7 activities.

8 JUDGE CHACHKIN: He hasn't said that. Are you
9 making --

10 MR. SCHONMAN: All I'm saying is that there's an
11 inference that, all I'm saying is that --

12 JUDGE CHACHKIN: How could you draw an inference?
13 He's not said that. It's not a matter of inference.

14 MR. SCHONMAN: Your Honor --

15 JUDGE CHACHKIN: You can't draw an inference from
16 that fact that he's had other positions. In fact, it doesn't
17 even say the dates that he held these other positions.

18 MR. SCHONMAN: Well, the resume does two things.

19 JUDGE CHACHKIN: Well -- go ahead.

20 MR. SCHONMAN: Okay. I mean -- I believe I've said
21 all I need to say on the point and I understand Your Honor's
22 ruling.

23 MR. COHEN: I object, Your Honor, to paragraph 4 for
24 the same reason and, and I suggest that you read this for a
25 moment. "Scarcely a day goes by when a welfare mother who has

1 lost her check does not come in and I give her money for her
2 baby's milk." That's the kind of material that's in paragraph
3 4, Your Honor, and I don't think it's relevant to the two
4 issues that have been designated in this proceeding.

5 JUDGE CHACHKIN: And, although this is all
6 laudatory, I agree with Mr. Cohen. There's nothing -- it's
7 not relevant to the issue of control and I'm going to strike
8 -- reject all of paragraph 4.

9 MR. COHEN: As far as paragraph 5 is concerned --

10 MR. TOPEL: Your Honor, I'm not going to reargue --

11 JUDGE CHACHKIN: I understand. You've stated your
12 position. Apparently -- I mean, it will go forward with the
13 record --

14 MR. TOPEL: I understand.

15 JUDGE CHACHKIN: -- so there's no need for you to
16 restate your position.

17 MR. TOPEL: One additional matter is that, and it
18 happened with Mrs. Duff's testimony, there is subsequent
19 testimony about the reasons that Pastor Hill favors NMTV
20 Broadcasting TBN programming in his capacity as a director and
21 he relates it to his prior experiences. Now, you ruled with
22 Mrs. Duff that, that the decision is what counts and the
23 background for the decision is -- was stricken.

24 JUDGE CHACHKIN: If they want to question it, they
25 could challenge it.

1 MR. TOPEL: Okay. Thank you, Your Honor.

2 MR. COHEN: Paragraph 5, Your Honor, I believe is
3 irrelevant to the designated issues. It deals with the
4 witness' background and his honors and I am not challenging
5 the fact that he received these honors. I am not challenging
6 the fact that he served -- that he was nominated to serve as
7 Chairman of the United States Civil Rights Commission under
8 President Reagan. I'm not disputing that, but I urge that
9 that is absolutely irrelevant in terms of the designated
10 issues in this proceeding.

11 JUDGE CHACHKIN: I'm going to reject all of
12 paragraph 5 as irrelevant.

13 MR. COHEN: And I, I respectfully submit that
14 paragraph 6 falls in exactly the same category where he says
15 that he's not immodest, but he provides this information to
16 indicate he's a person of some background who knows the goals,
17 I would like to see my race of people achieve, etc., etc. And
18 I believe that is irrelevant to the designated issues.

19 JUDGE CHACHKIN: Paragraph 6 will also be stricken.

20 MR. TOPEL: Your Honor, since paragraph 7 hasn't
21 been stricken yet, I would ask you to consider leaving in the
22 last sentence of paragraph 6 which is an introduction to
23 paragraph 7 that describes matters that affected his decision
24 to become involved with National Minority Television.

25 JUDGE CHACHKIN: Well, he says that in paragraph 7,